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## ABS PIPE CLASS-ACTION SUIT SET FOR HEARING

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A \$73.6 million class-action settlement on allegedly defective ABS pipe is working its way toward a May fairness hearing in a California court. A relic of an earlier era in the industry, the litigation faces some contentious final steps.

The class includes "all owners and residents of buildings with ABS pipe" that certain firms made between 1984 and 1990, said Robert Nelson, a lawyer representing the plaintiffs with the San Francisco law firm of Lief Cabraser Heimann & Bernstein LLP.

Home builders installed rigid black ABS pipe to drain sinks, tubs, showers, toilets, and clothes and dish washers. Most of the flawed pipe was used in California dwellings, and some in other Western states. Nelson said the number of homes ``runs in the thousands."

Pipe makers used resin that did not meet standards, alleged David M. Birka-White, an Alamo, Calif., lawyer also representing the plaintiffs. Joint-cement solvent progressively degraded the ABS until a circumferential failure occurred at the glue line.

Birka-White filed ABS pipe litigation beginning in 1986. The class actions started in 1993.

The current case is a consolidation of six class-action complaints. Insurance covers most defendants' losses, and eight defendants already have agreed to settlements.

Onetime resin supplier Plastic Processing Inc. of Fort Worth, Texas, agreed to pay \$25 million. The firm sold the questionable resin from late 1984 through 1986 and went out of business in 1987.

The proposal lists former ABS pipe manufacturers Polaris Pipe Co. of Van Nuys, Calif.; Gable Plastics Inc. of Santa Ana, Calif.; Centaur Manufacturing Inc. of Tracy, Calif.; and Phoenix Extrusion Co. of Tracy; and a lone survivor, Apache Plastics Inc., now operating as Apache Plastics LP of Lodi, Calif.

``Polaris [Pipe Co.] in particular and the other defendants in general strongly deny all allegations that the pipe or the resins used to manufacture the pipe are defective," Jeffrey Richardson said in a telephone interview. ``No judge or jury has ever found Polaris pipe to be defective."

Richardson, with the Los Angeles law firm Mitchell Silberberg & Knupp LLP, represents Polaris.

Polaris has a commitment to fund restitutions up to \$25 million. Others have deposited their full obligations, including Gable, \$16.13 million; Apache, \$2.4 million; Phoenix, \$1.5 million; and Centaur, \$175,000. Material certifier International

Association of Plumbing & Mechanical Officials of Walnut, Calif., owes about \$2.88 million, and the defunct Amfac Distribution Corp., which had a Sacramento, Calif., regional office, owes \$500,000.

Birka-White has kind words for one defendant: ``Apache has done a lot to try to correct the situation. I consider them to be in a different category from the other defendants."

Apache employs 150 and has annual sales of about \$40 million, according to the 1997 Plastics News ranking of North American pipe, profile and tubing extruders. Apache's current resin use includes ABS, 8 percent, and PVC, 92 percent.

Owners and residents have until April 24 to file settlement comments with Referee Ellen James in Contra Costa County Superior Court in Martinez, Calif. She will recommend acceptance or denial of the proposal.

After a May 14 hearing, Judge Mark Simons will consider a final court order. If authorized, the claims administrator could begin distributing the funds by midsummer.

*Letter  
— to the —  
Editor*

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